

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
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November 10, 1999

David C. Laredo
DeLay and Laredo, Attorneys at Law
606 Forest Avenue
Pacific Grove, CA 93950-4221

Re: Public Works Case #99-054
Monterey Peninsula Water Management District
Improvements in Purchased Building

Dear Mr. Laredo:

This letter constitutes the determination of the Director of Industrial Relations regarding coverage of the above project under the public works laws and is made pursuant to Title 8, California Code of Regulations section 16001(a). Based upon my review of the documents submitted and analysis of the relevant facts as presented, I have determined that the above referenced project is a "public work" within the meaning of Labor Code section 1720 et. seq., and consequently is subject to prevailing wages obligations.

During the first few months of this year, the Monterey Peninsula Water Management District (District) began a search for a suitable building to which to relocate its operations. A realtor was engaged and the building commonly known as #5 Harris Court, Monterey, California (Building) was located.

At the time of the purchase of the Building, the partially completed structure was designed to house four separate tenants. This required the District to retain an architect to prepare an appropriate design to accommodate the District's space configuration needs. The design provides for the removal of two existing stairways as well as the modification and/or removal of perimeter walls. In addition, because the Building is only partially built, extensive construction will be undertaken to install sheet rock, ceilings, doors, plumbing, HVAC and electrical systems, all per the specifications of the District contained in Exhibit B to the sales agreement. The approximate \$ 395,000.00 cost of these improvements is included in the District's purchase price. Item VII, District Meeting, June 21, 1999.

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Labor Code section 1720(a) defines "public works" in pertinent part as "[c]onstruction, alteration, demolition or repair work done under contract and paid for in whole or in part out of public funds..." The District, through its real property purchase agreement with the seller, is contracting to pay for construction out of public funds. Paragraph 1, Exhibit A to the purchase agreement states, "Buyer and seller have agreed that . . . all costs for the improvements to the premises are included in the purchase price of \$ 1,633,204." The fact that the contract is for the sale of the Building is irrelevant; Section 1720(a) does not require a specific type of contract under which construction is paid for with public funds.

Therefore, for the reasons stated above, and consistent with a past precedential public works decision¹, the purchaser improvements contemplated in the purchase agreement between the District and Harris Court Partners constitute a public work within the meaning of Labor Code sections 1720 et. seq. for which prevailing wages must be paid. Because coverage of the project is found under section 1720(a), it is not necessary to reach a conclusion regarding coverage under section 1720.2, as raised by the District.

Sincerely,



Stephen J. Smith
Director

cc: Daniel M. Curtin, Chief Deputy Director
and Acting Chief, DLSR
Marcy Saunders, Labor Commissioner
Henry P. Nunn, III, Chief, DAS
Vanessa L. Holton, Assistant Chief Counsel
Harris Court Partners

¹ Precedential Public Works Decision on Administrative Appeal, #97-007, Springs Gateway Building Partnership, January 15, 1998.